

Remarks:

This amendment is submitted in an earnest effort to advance this case to issue without delay.

Enclosed herewith is a conforming Substitute Declaration.

With respect to the rejection of claims 1-6 under §101, claim 1 has been amended to recite the step of "outputting the determined polarization mode dispersion. In addition new claim 13 recites how the output is displayed. Thus the claimed method for measuring the polarization mode dispersion has a useful, tangible and concrete result in the very value of the polarization mode dispersion that is determined by the claimed method as defined in the last step of claim 1. This method is meant to be implemented in technical instruments, e.g. in the system of claim 7 or by the device of claim 10 and these technical instruments generate as their primary working function values of polarization mode dispersion. These values of polarization mode dispersion are made available as an output of the method/system/device. This feature is supported in the original description at least in paragraphs [0026], [0082] and in figure 4 (according to the paragraph numbering of the Patent Application Publication, US 2006/0023224). Namely, the original description mentions the general feature of "outputting the determined polarization mode dispersion" both as a

"display" at paragraph [0026], and as a "showing the results of the measurement" at paragraph [0082] and in figure 4.

Support for new claim 13 can be seen in paragraph [0026] of the original description.

The amendment to claim 1 cures the problems with claim 6. It should be noted that MPEP 2106.01 does not seem to require in general that a computer program needs to be implemented on a computer readable medium or other structure in order to be directed to a statutory category of invention. Indeed, claims directed to computer program products are usually accepted by the USPTO even without reference to a computer readable medium or other structure embodying it. Accordingly, now that the objection under §101 to claim 1 is overcome, the computer program product of claim 6 should be held allowable even without specifying that it is embodied on a computer readable medium or other structure. This claim has been amended by adding the word "program" to the former language "computer product".

With respect to the rejection under §102 on US 5,852,496 of Gisin, claims 1, 7, and 10 have been amended to include the feature of now canceled claims 2, 8 or 11. They now specify that determining the polarization mode dispersion comprises computing the deconvolution of the one side lobe with the central peak so that the deconvolution corresponds to the probability density of the differential group delay determined by the PMD of the fiber.


Contrary to what was stated in the Office Action, this feature is not disclosed (nor suggested) in Gisin. More particularly, the passage of Gisin referred to by the Examiner (column 5, lines 53-62, in combination with FIG. 5b), while generically referring to a central peak and lateral peaks of an interferogram does not make any reference to the specific feature of computing the deconvolution of at least one of the side lobes with the central peak in order to evaluate a fiber PMD. It should be noted here that the deconvolution entails not only a consideration of the displacement of the lateral peaks during measurement, as taught by Gisin (see, column 7, lines 1-21), but an evaluation based on the whole shape of the central peak as well as of the whole shape of at least one of the side lobes. Nowhere does Gisin teach or suggest to use this type of information on the central peak or lateral peaks. The invention as now claimed is clearly more specific than using simply the position of the peaks.

For these reasons the claims in the case are clearly allowable under §102 and §103 over the cited art. Notice to that effect is earnestly solicited.

If only minor problems that could be corrected by means of a telephone conference stand in the way of allowance of this case, the examiner is invited to call the undersigned to make the

necessary corrections.

Respectfully submitted,
K.F. Ross P.C.


by: Andrew Wilford, 26,597
Attorney for Applicant

05 September 2007
5683 Riverdale Avenue Box 900
Bronx, NY 10471-0900
Cust. No.: 535
Tel: 718 884-6600
Fax: 718 601-1099
Email: email@kfrpc.com

Enclosure: Request for extension (three months)
Substitute Declaration